

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-V-

JOSHUA ADAM SCHULTE,

Defendant.

17-CR-548 (JMF)


ORDER

JESSE M. FURMAN, United States District Judge:

Attached to this Order is a final version of the juror questionnaire that the Court used during oral voir dire on September 11, 2023.

SO ORDERED.

Dated: September 12, 2023
New York, New York


JESSE M. FURMAN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JOSHUA ADAM SCHULTE,

Defendant.

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S2 17-CR-548 (JMF)

VOIR DIRE

JESSE M. FURMAN, United States District Judge:

**PLEASE DO NOT READ FURTHER OR WRITE ANYTHING ON
THIS QUESTIONNAIRE UNTIL THE JUDGE TELLS YOU TO DO SO**

When directed to do so, please indicate if your answer to any of the following questions is “yes” by circling the number of that question. If your answer to a question is “no,” you should not do anything. Do *not* write your name or make *any other* marks on the questionnaire; the only marks you should make are circles around the questions for which your answer is “yes.” If, when asked about a “yes” answer, you prefer not to elaborate in open court, please say so.

A. General Questions

1. As I noted, this trial is expected to last up to two weeks. Do you have any unmovable commitments or extraordinary personal hardship that would interfere with your serving as a juror at a trial that is expected to end, at the latest, by Friday, September 22, 2023?

2. Do you have any difficulty understanding or reading English?

3. Do you have any ideas or prejudices that would make it difficult for you to follow my instructions as to the law?

4. As I mentioned, at the end of the trial, I will give you thorough instructions on the applicable law, including what the Government must prove beyond a reasonable doubt for you to find the defendant guilty of the crimes with which he is charged. Do you have any doubt that you will be able to apply the law as I explain it even if you disagree with it?

5. In our criminal justice system, the defendant is presumed to be innocent, not only at the outset of the trial, but throughout the entire trial — unless and until the Government proves his guilt beyond a reasonable doubt. Would you have any trouble following my instructions on these points?

6. Because the burden rests with the Government at all times, the defendant has no obligation to offer evidence or to testify in his own defense. If the defendant chooses not to testify, as is his absolute right, would you have any trouble following my instruction that you may not consider that fact in any way in your deliberations in the jury room?

7. Do you have any religious or ethical beliefs that would prevent you from passing judgment on another person?

8. Have you, or has any close friend or relative, ever studied or practiced law or worked in any capacity for a law office or a court?

9. Have you, or has any close friend or relative, ever worked for any law enforcement or intelligence agency, including the Federal Bureau of Investigation (“FBI”), the New York City Police Department (“NYPD”) the Central Intelligence Agency (“CIA”), the National Security Agency (“NSA”), the United States Attorney’s Office, the Department of Justice, or any other such agency?

10. Do you have any bias or prejudice for or against the FBI, the United States Attorney’s Office, the Department of Justice, or any other federal agency?

11. Have you, or has any close friend or relative, either as an individual or in the course of business, ever been involved in any legal action or dispute with the United States or any of its offices, departments, agencies, or employees, or had any interest in any such legal action or dispute or its outcome?

12. Have you, or has any close friend or relative, ever worked for a criminal defense attorney or private investigator?

13. Do you have any bias or prejudice for or against criminal defense attorneys?

14. Have you, either through any experience you have had or anything you have seen or read, developed any bias or prejudice, positive or negative, based on race, national origin, or gender, that may inhibit your ability to be a fair and impartial juror in this case?

B. Case-Specific Questions

15. Do you have any personal knowledge of this case, or have you heard or read anything about the charges or people involved as I have described them?

16. Do you have any knowledge of the defendant Mr. Schulte, whether from personal experience, media, or any other source?

17. The government witnesses in this case may include law enforcement officers and other government employees. Would you have any difficulty assessing the credibility of such a witness just like you would any other witness?

18. You also may hear testimony from expert witnesses. Have you had any experiences with expert witnesses, or do you have any general feelings about the use of expert witnesses, that would affect your ability to be fair and impartial in this case?

19. This trial may include evidence obtained through searches by law enforcement officers. I instruct you that any evidence of this kind — indeed any evidence that is presented at trial — was lawfully obtained. Do you have any feelings or opinions about the use of any of this kind of evidence that could make it difficult for you to evaluate the evidence fairly and impartially?

20. The Government is not required to use any particular investigative technique when uncovering evidence of, or prosecuting, a crime. Would you have any trouble following my instructions on that score?

21. Do you have any expectations about the type or types of evidence that the Government should or will present in criminal trials?

22. As I mentioned, the defendant is charged with the receipt, possession, and transportation of child pornography. Do you have any feelings, beliefs, or experiences related to this subject matter that would affect your ability to be fair and impartial in this case?

23. As I mentioned, I expect that there will be some sexually explicit evidence shown to the jury during trial, although it is likely to be limited in both quantity and duration. Is there any reason to believe that such evidence will prevent you from being fair and impartial in this case?

24. Have you, or has any close friend or relative, been involved — as a defendant, victim, witness, or in any other way — in a case involving child pornography or any other sexual misconduct?

25. Have you, or has any close friend or relative, had any experience with child pornography — or any other sexual misconduct — that would affect your ability to be fair and impartial in this case?

26. Do you believe that the receipt, possession, or transportation of child pornography should not be illegal or believe that criminal laws concerning these types of crimes should not be enforced by the federal government?

27. Do you consider yourself to be knowledgeable in, or have any expertise with, computers, computer code, or information technology?

28. Have you ever had an information technology job or a job relating to computer technology or computer coding?

29. Is there any reason that you could not serve as a fair and impartial juror in a case involving charges like those in this case — that is, charges relating to the receipt, possession, and transportation of child pornography?

C. Knowledge of Parties, Lawyers, and Witnesses

30. The United States is represented in this case, as in all cases, by the United States Attorney for this District, who is Damian Williams. Appearing on his behalf in this case will be Assistant United States Attorneys David W. Denton, Jr., Nicholas S. Bradley, and Michael D. Lockard. They will be assisted by Kayla Collins, a paralegal specialist in the U.S. Attorney's Office. Do you know, or have you had any dealings, directly or indirectly, with any of these people or any other member of the United States Attorney's Office for this District?

31. The Assistant United States Attorneys will also be assisted in this case by Sean Collins and Vincent Lai, who are FBI Special Agents. Have you, or has anyone close to you, had any dealings, either directly or indirectly, with either of them or with any member of the FBI?

32. As I mentioned, the defendant in this case is Joshua Schulte. Mr. Schulte is represented by César de Castro and Shannon McManus, of the law firm César de Castro, P.C., and they will be assisted by Kimberly Tabares, a paralegal. Do you know, or have you had any dealings, directly or indirectly, with any of these people; the law firm of César de Castro, P.C.; or anyone else at that firm?

33. Do you know or have you heard of any of the following people who may testify or whose names may be mentioned during the course of the trial?

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|-----------------------------|--------------------|
| a) Richard Evanchec | h) Kenneth Smith |
| b) Aaron Spivack | i) Soyup Hahn |
| c) Michael Berger | j) Travis Rockwood |
| d) Jeffrey "Dave" Donaldson | k) Gunnar DeMarco |
| e) Nicholas Lewin | l) Craig Roth |
| f) Shane Stansbury | m) Ryan Lamb |
| g) Taylor Koss | n) Richard Kiper |

34. Are you familiar with anyone else present in the courtroom, including your fellow jurors, all Court personnel, and myself?

35. Some of the evidence in this case may concern events that took place at or around the following locations:

- a. 200 East 39th Street, New York, NY
- b. 45897 Peach Oak Terrace, Sterling, VA

Do you have familiarity with either of these places that would interfere with your ability to be fair and impartial in this case and to decide the case based only on the evidence presented in court?

D. Experience with, and Opinions of, Lawsuits

36. If you or any close friend or relative has ever brought a lawsuit against anyone or been sued, would that experience affect your ability to be fair and impartial in this case?

37. Have you, or has any close friend or relative, ever been involved, been questioned, or appeared as a witness, in any trial or any investigation, including any investigation by a federal or state grand jury or a law enforcement agency?

38. Have you, or has any close friend or relative, ever been the victim of a crime (other than one you have mentioned in connection with a previous question)?

39. Have you, or has any close friend or relative, ever been arrested or incarcerated?

E. Difficulties in Understanding or Serving

40. Do you have any problem with your hearing or vision or any physical or medical issues (including any medication you may be taking) that would prevent you from giving your full attention to all of the evidence presented during this trial?

41. Is there anything about COVID-19 that would affect your ability to be fair and impartial in this case?

42. The question of punishment is for me alone to decide, and the possible punishment must not enter into your deliberations as to whether the defendant is guilty or not guilty. Would you have any trouble following that instruction if you were selected to serve as a juror?

43. From now and until your jury service is complete, you must avoid any discussion of this case, whether in the media, on social media, on the Internet, or elsewhere. That is, you are forbidden from consuming any news media or social media or any discussion of this case (or of anyone participating in the case) outside of the courtroom whatsoever. You also must not discuss this case with anyone. This includes your family, friends, spouse, domestic partner, colleagues, and co-workers. These instructions apply from now and until you are either dismissed from jury selection or chosen as a juror and the trial is complete. Do you have any reservations or concerns about your ability or willingness to follow these instructions?

44. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror in this case. Apart from any prior question I have asked you, is there *any* reason that you could *not* be a conscientious, fair, and impartial juror in this case and render a true and just verdict without fear, favor, sympathy, or prejudice, according to the law as I will explain it to you?

QUESTIONS FOR INDIVIDUAL JURORS

1. Please state your name.
2. In which county or counties have you lived during the past five years?
3. How old are you?
4. How far did you go in school?
5. What do you do? (If retired or unemployed, describe your last employment.)
6. How long have you been employed in your current position? (If fewer than five years, where else did you work in the last five years?)
7. Do you live with anyone and, if so, what do they do?
8. Do you have grown children and, if so, what do they do?
9. Where do you typically get your news? For example, what phone apps, television shows, print newspapers, magazines, radio shows, podcasts, or internet news site(s) do you use, read, watch, or listen to on a regular basis?
10. Do you watch any shows dealing with the criminal justice system, such as investigative news programs like Dateline, 48 Hours, or 20/20, or police drama shows like Law & Order or CSI?
11. Do you belong, or volunteer your time, to any associations, organizations, clubs, or unions?
12. What do you like to do in your spare time?
13. Have you ever served as a juror? If so, when did you serve and were you on a grand jury or a regular jury? If a regular jury, was it a civil or criminal case? Did you reach a verdict? **(Do not tell us what the verdict was.)**